

NEVADA ADMINISTRATIVE CODE CHAPTER 519A

RECLAMATION OF LAND SUBJECT TO MINING OPERATIONS OR EXPLORATION PROJECTS

REGULATION OF MINING OPERATIONS AND EXPLORATION PROJECTS

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Note: The Administrative code provided below was originally downloaded as .htm text from the Nevada Legislative Counsel Bureau's website (www.leg.state.nv.us). See the footer for the date of the LCB codification of the below regulations. This regulation contains all citations for the Chapter 519A affected by the State Environmental Commission, the Division of Environmental Protection, the Board to Review Claims and the Minerals Commission.

REGULATION OF MINING OPERATIONS AND EXPLORATION PROJECTS

General Provisions

NAC 519A.010 Definitions. (NRS 519A.160) As used in NAC 519A.010 to 519A.415, inclusive, unless the context otherwise requires, the words and terms defined in NAC 519A.015 to 519A.095, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 9-19-90; A by R090-00, 7-27-2000; T02—02, 4-5-2002)

NAC 519A.015 "Abandonment" defined. "Abandonment" means the permanent cessation of operation or maintenance of an exploration project or mining operation without the intent to resume operation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.020 "Active" defined. "Active" means that operations or actions are being conducted at an exploration project or mining operation which results in land being affected.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.025 "Affected" defined. "Affected" means that the surface of the land is or will be disturbed by an exploration project or mining operation, or that the land is used:

1. As an evaporation or settling pond, leach dump, placer area or tailings pond or dump; or
2. In conjunction with any structure, facility, equipment, machine, tool, material or property incident to an exploration project or mining operation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.030 "Division" defined. "Division" means the division of environmental protection of the state department of conservation and natural resources.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.035 "Exploration project" defined.

1. "Exploration project" means all activities conducted in this state by a person on or beneath the surface of the land for the purpose of, or in connection with, determining the presence, location, extent, depth or grade of any mineral.

2. The term does not include an exploration project which is limited to a surface disturbance of not more than 5 acres in any calendar year. To determine the area of the surface disturbed:

(a) All land disturbed and left unreclaimed by an operator within a 1-mile radius of the center of the project must be considered; and

(b) Land shall be considered reclaimed if action has been taken to stabilize the land to a condition designed to result in the establishment of a productive post-mining use of the land.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.040 "Growth medium" defined. "Growth medium" means a material which is capable of supporting vegetation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.045 "Mining operation" defined. "Mining operation" means all activities conducted in this state by a person on or beneath the surface of land for the purpose of, or in connection with, the development or extraction of any mineral. The term does not include a small mining operation or a sand or aggregate pit.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.050 "Minor modification" defined. "Minor modification" means:

1. An increase in the acreage affected by an active exploration project or active mining operation if:

- (a) The types of disturbances are included in the approved plan; or
- (b) The affected land can be reclaimed in a manner which is substantially similar to the manner of reclamation included in the approved plan.

2. Changes in the specific techniques for reclamation, including, but not limited to the equipment which is used and the mixes of seeds.

3. Changes to the final contours.

4. Changes to the schedule for completing reclamation necessitated by changes in:

(a) The mining operation or exploration project; or

(b) Changes to the approved plan for reclamation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.055 "New exploration project" defined. "New exploration project" means an exploration project which was not active before October 1, 1990.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.060 "New mining operation" defined. "New mining operation" means a mining operation which was not active before October 1, 1990.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.065 "Operator" defined. "Operator" means any person who owns, controls or manages an exploration project or a mining operation.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.068 "Process fluid stabilization" defined. (NRS 519A.160) "Process fluid stabilization" means binding, containing, or otherwise treating contaminants in a fluid, including, without limitation, meteoric waters, that have intentionally or unintentionally been introduced into a heap leaching facility or tailings facility to prevent the contaminants from degrading the waters in this state through naturally occurring environmental conditions which may be reasonably expected at the mine site.
(Added to NAC by Environmental Comm'n by R090-00, eff 7-27-2000)

NAC 519A.070 "Productive post-mining use of the land" defined. "Productive post-mining use of the land" means a use which supports activities including:
1. Wildlife habitat;
2. Livestock grazing;
3. Agriculture and ranching;
4. Industry;
5. Recreation; or
6. Any other activities which benefit the State of Nevada, its residents or the owner of the land.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.075 "Reclamation" defined. "Reclamation" means actions performed during or after an exploration project or mining operation to shape, stabilize, revegetate or otherwise treat the land in order to return it to a safe, stable condition consistent with the establishment of a productive post-mining use of the land and the safe abandonment of a facility in a manner which ensures the public safety, as well as the encouragement of techniques which minimize the adverse visual effects.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.080 "Revegetation" defined. "Revegetation" means the establishment of the pre-exploration or pre-mining vegetation or a comparable vegetative cover.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.085 "Small mining operation" defined. "Small mining operation" means a person who does not remove from the earth in any calendar year material in excess of 36,500 tons and who disturbs less than 5 acres of land in any calendar year. To determine the area of the surface disturbed, all land disturbed and left unreclaimed by an operator within a 1-mile radius of the center of the project must be considered.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.090 "Temporary closure" defined. "Temporary closure" means the cessation of an exploration project or mining operation for a period of not more than 3 years.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.095 "Topsoil" defined. "Topsoil" means the material at or near the surface of the earth which has been modified and acted upon by natural, physical, chemical or biological agents in a manner which will allow it to support revegetation.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.100 Applicability: Land within exploration project or mining operation. NAC 519A.010 to 519A.415, inclusive, applies to affected land which is located in exploration projects or mining operations which are active on or after October 1, 1990.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.105 Applicability: Road used for access to exploration project or mining operation. NAC 519A.010 to 519A.415, inclusive, does not apply to a road which an operator can prove to the satisfaction of the division existed before January 1, 1981, if the road:
1. Is used for access to an exploration project or mining operation; and
2. Has not been altered other than maintenance activities and minor repairs since January 1, 1981.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.110 Effect of provisions on existing sureties and approved plans of reclamation; applicability to revisions to plans for reclamation.

1. NAC 519A.010 to 519A.415, inclusive, does not affect, alter or modify the terms and conditions of any approved plan for reclamation or surety obtained from a federal land management agency before October 1, 1990, which is consistent with NAC 519A.010 to 519A.415, inclusive.

2. NAC 519A.010 to 519A.415, inclusive, applies to any revisions to a plan for reclamation submitted on or after October 1, 1990.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.115 Preliminary compliance with provisions. An operator who submits a complete application for a permit by April 1, 1993, and pays the applicable fees as required by NAC 519A.225 shall be deemed to be in compliance with NAC 519A.010 to 519A.415, inclusive, until the division either issues a permit or denies the application.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

Permits and Fees

NAC 519A.120 Time when obtaining of permit and payment of fees required.

1. The operator of each exploration project or mining operation which is active on October 1, 1990, shall obtain the permit required by NRS 519A.180 or 519A.200, as applicable, and pay the fees required by NAC 519A.225:

(a) On or before October 1, 1993; or

(b) Before abandonment of the exploration project or mining operation, whichever occurs first.

2. The operator of each exploration project and mining operation which becomes active after October 1, 1990, shall obtain the permit required by NRS 519A.180 or 519A.200, as applicable, and pay the fees required by NAC 519A.225 before engaging in exploration or mining.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.125 Permits for exploration projects: Application.

1. The operator of an exploration project shall apply to the division for a permit.

2. The application must include:

(a) The applicant's name, address and telephone number;

(b) If the applicant is a corporation or other business entity which is required to have a resident agent, the name, address and telephone number of its resident agent and its principal officers or partners;

(c) A complete plan for reclamation;

(d) The estimate of the cost of executing the plan for reclamation required by NAC 519A.360;

(e) A statement that the applicant agrees to assume responsibility for the reclamation of any surface area affected by his exploration project;

(f) A map which depicts the area to be covered by the surety; and

(g) For the purpose of calculating the amount of the surety, the average number of drill holes to be left open at any one time during the life of the project.

3. The application must be accompanied by the fee charged by the division for an application for the issuance of a permit required by NAC 519A.225.

(Added to NAC by Environmental Comm'n, eff. 9-19-90; A 9-5-91)

NAC 519A.130 Permits for exploration projects: Duration; limitation on issuance.

1. A permit for an exploration project is valid for the life of the project unless it is suspended or revoked by the division.

2. If a permit for an exploration project is included in a permit for a mining operation, it is valid for the life of the operation.

3. A permit must not be issued to an operator who has an outstanding notice of noncompliance issued pursuant to NAC 519A.400.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.135 Interim permits for exploration projects: Prerequisites; effect; duration.

1. The division may grant an interim permit for an exploration project conducted on private land if:

(a) The operator requests the interim permit in writing;

(b) The project contains a disturbance on affected land which is greater than 5 acres but less than 20 acres within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project;

(c) The project employs best management practices for control of erosion as described in the State of Nevada Diffuse Source Handbook of Best Management Practices or practices equivalent thereto;

(d) The operator files an application for a permit with the division, including the information required in subsection 2 of NAC 519A.125 before disturbing and not reclaiming 5 acres of land;

- (e) The operator provides surety which is acceptable to the division;
 - (f) The operator files the fee required by NAC 519A.225 and submits the statement required by paragraph (e) of subsection 2 of NAC 519A.125;
 - (g) The operator does not have an outstanding notice of noncompliance issued pursuant to NAC 519A.400; and
 - (h) The operator is not in violation of the provisions of:
 - (1) Chapter 519A of NRS;
 - (2) NAC 519A.010 to 519A.415, inclusive; or
 - (3) An approved plan for reclamation.
2. The division may grant an interim permit for an exploration project conducted on public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency if:
- (a) The operator requests the interim permit in writing;
 - (b) The project contains a disturbance on affected land which is greater than 5 acres but less than 20 acres within a 1-mile radius of the center of the project, including all lands, both public and private, associated with the project;
 - (c) The operator submits to the division a plan for reclamation approved by the applicable federal land management agency before disturbing and not reclaiming 5 acres of land;
 - (d) The operator demonstrates that a surety acceptable to the applicable federal agency has been filed;
 - (e) The operator files the fee required by NAC 519A.225 and submits the statement required by paragraph (e) of subsection 2 of NAC 519A.125;
 - (f) The operator does not have an outstanding notice of noncompliance issued pursuant to NAC 519A.400; and
 - (g) The operator is not in violation of the provisions of:
 - (1) Chapter 519A of NRS;
 - (2) NAC 519A.010 to 519A.415, inclusive; and
 - (3) An approved plan for reclamation.
3. An operator meeting the requirements of subsection 1 or 2 may proceed with the exploration project while the division processes the application for a permit.
4. An interim permit granted pursuant to this section remains in effect until:
- (a) A final permit is issued or denied; or
 - (b) The interim permit is revoked or suspended,
- by the division.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.140 Permits for mining operations: Application.

- 1. The operator of a mining operation shall apply to the division for a permit.
 - 2. An application must include:
 - (a) The applicant's name, address and telephone number;
 - (b) If the applicant is a corporation or other business entity which is required to have a resident agent, the name, address and telephone number of its resident agent and its principal officers or partners;
 - (c) A complete plan for reclamation;
 - (d) The estimate of the cost of executing the plan for reclamation required by NAC 519A.360;
 - (e) A statement that the applicant agrees to assume responsibility for the reclamation of any surface area affected by his mining operation;
 - (f) A map which depicts the area to be covered by the surety;
 - (g) For the purpose of calculating the amount of the surety, the average number of drill holes to be left open at any one time during the life of the project; and
 - (h) The fee charged by the division for an application for and the issuance of a permit required by NAC 519A.225.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90; A 9-5-91)

NAC 519A.145 Permits for mining operations: Duration; inclusion of exploration activities; limitation on issuance.

- 1. A permit issued for a mining operation is valid for the life of the operation unless it is suspended or revoked by the division.
 - 2. Upon request by the applicant, a permit for mining must include all exploration activities conducted within the project area.
 - 3. A permit for mining must not be issued to an operator who has an outstanding notice of noncompliance issued pursuant to NAC 519A.400.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.150 Exploration projects and mining operations on public land. If an exploration project and mining operation take place on public lands administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency:

- 1. A plan of operations which has been approved by the federal agency may be substituted for the application for a permit required by NAC 519A.125 or 519A.140 and if it is accompanied with a surety which is acceptable to the division and includes a plan for reclamation of all affected land, it is deemed to be a complete application for a permit; and
 - 2. Evidence of a surety filed with the federal agency may be substituted for the surety required by NAC 519A.350.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.155 Exploration projects and mining operations on both private and public land. If an exploration project and mining operation takes place on a site which includes privately owned land and public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency:

1. A plan of operations which has been approved by the federal agency may be substituted for the application for a permit required by NAC 519A.125 or 519A.140 if the plan sets forth reclamation practices for both the public and privately owned lands;

2. The memorandum of understanding entered into by the division and the federal agency must provide for the review by the division of those portions of the plan of operations regarding privately owned land so that the division can determine if they are consistent with the requirements of NAC 519A.010 to 519A.415, inclusive; and

3. Evidence of a surety approved by the federal agency may be substituted for the surety required by NAC 519A.350 if the surety is in an amount for the public and privately owned land which is acceptable to the division.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.160 Submission to division of new or amended plan of operation. When an operator of an exploration project or mining operation submits a new or amended plan of operation to the federal agency, he shall file a copy with the division to allow the division to conduct its review concurrently with the federal agency.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.165 Review of application for permit; provision of additional information.

1. The division shall review an application for a permit and notify the applicant if additional information is required within 15 days after the receipt of the application. The notice must state the additional information which is required.

2. If the applicant provides additional information to complete an application, the division shall notify the applicant if more additional information is required within 15 days after receipt of the additional information. The notice must state the additional information which is required.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.170 Treatment of information as confidential.

1. An operator may request when the information is submitted that the information submitted to the division with the request for a permit be treated as confidential. The division shall consider a request only if the operator, when the information is submitted, stamps or writes confidential business information on each page.

2. The operator must show to the satisfaction of the division that the information contained in the application for a permit is entitled to protection as a trade secret.

3. Except as otherwise provided in subsection 4, if the division determines that the information is not entitled to protection as a trade secret it must not make the information public until the division has:

(a) Notified the operator; and

(b) Allowed at least 10 working days after the notice has been sent for the informant to appeal the decision.

4. If the request is not made at the time the information is submitted, the division may make the information available to the public without notice to the operator.

5. "Trade secret":

(a) Includes the location of exploration drill holes and a formula, pattern, compilation, program, device, method, technique or process that:

(1) Derives independent economic value, present or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) Does not include the name and address of the operator.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.175 Time for final denial or issuance of final permit; effective date of permit; notice of denial.

1. The division shall issue a final permit to the applicant or a final decision to deny a permit within 15 days after:

(a) If a public hearing is required, the close of the period for submitting comments and information prescribed in NAC 519A.185 to 519A.210, inclusive; or

(b) If a public hearing is not required and the application is complete, the receipt of an application for a permit and the required fees.

2. A permit issued by the division becomes effective upon the receipt by the division of the surety required by NAC 519A.350.

3. If the application for a permit is denied, the division must notify the applicant of:

(a) The reasons for denial; and

(b) The time within which an appeal must be brought and procedures for appealing the decision pursuant to NAC 519A.415.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.180 Time for issuance of draft of permit or notice of intent to deny application; extension of time for review of application.

1. The division shall prepare and issue a draft of a permit or notice of intent to deny the application for a permit, the grounds for the denial, if applicable, and the public notice pursuant to NAC 519A.185, if applicable, within:

(a) Fifteen days after it completes its review of a complete application for an exploration project or mining operation on federal land;

(b) Thirty days after it completes its review of a complete application for an exploration project on private land; and

(c) Sixty days after it completes its review of a complete application for a mining operation on private land.

2. If the division determines that an application for a permit does not comply with the requirements of NAC 519A.010 to 519A.415, inclusive, the application will be denied unless the operator requests that the time for the division to review a complete application set forth in paragraphs (a), (b) and (c) be extended for the amount of time necessary for the applicant to submit additional documentation and information.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.185 Provision of notice of intent to issue draft of permit or to deny application.

1. Except as otherwise provided in subsection 3, the division shall, at least 30 days before the issuance of a draft permit or a notice of intent to deny the application for a permit for an exploration project or mining operation to be conducted on privately owned land:

(a) Circulate a public notice of the intent to issue a draft permit or deny the application in a manner intended to inform interested persons;

(b) Cause to be published in a newspaper of general circulation within the geographic area of a proposed exploration project or mining operation, a notice of the intent to issue the permit or deny the application; and

(c) Mail to the operator, landowner, members of the board of county commissioners of the county in which the project or operation is to be located, division of minerals and any other person or group who so requests, written notice of the intent to issue a draft permit or deny the application.

2. Notice given pursuant to subsection 1 must include:

(a) The name, address and telephone number of the division;

(b) The name and address of the operator;

(c) The location of the proposed project or operation;

(d) The tentative decision of the division to issue a draft permit or deny the application for a permit;

(e) A description of the procedure which the division will use to make a final decision to issue or deny the permit;

(f) The location where interested persons may obtain further information or inspect and copy the draft of the permit and other relevant forms and documents; and

(g) A statement that interested persons must submit to the division written comments and information on the tentative decision of the division within 30 days after the date on which the notice is published.

3. An application for a permit which has been submitted pursuant to NAC 519A.150 or 519A.155 is not subject to the notice requirements of NAC 519A.185 to 519A.210, inclusive.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.190 Submission of comments and information concerning draft of permit; request for public hearing.

1. Within 30 days after notice is published pursuant to NAC 519A.185:

(a) Any person may submit written comments and information regarding the draft of the permit to the division.

(b) The operator or any person who is directly affected by the application for a permit may request in writing a public hearing on any application for a permit. The request must state the reason for the request and the issues to be raised at the hearing.

2. Upon the receipt of written comments or information, the division shall send a copy of the comments or information to the applicant.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.195 Prerequisites for scheduling public hearing on application for permit. The division shall schedule a public hearing on an application for a permit if:

1. A person who is directly affected by the application for a permit requests the hearing and the division determines that the request is reasonable and there is a significant degree of public interest in the matter; or

2. The division deems it necessary.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.200 Notice of public hearing.

1. The division shall cause to be published a notice for a hearing at least 30 days before the hearing in the manner prescribed by NAC 519A.185.

2. In addition to the information required by NAC 519A.185, the notice must include:

(a) The date on which the public notice required by NAC 519A.185 was given concerning the permit;

(b) The date, time and place of the hearing; and

(c) A brief description of the nature and purpose of the hearing and the applicable rules and procedures for the hearing.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.205 Submission of comments and information at public hearing; provision of records to operator.

1. Any person may submit to the division at a public hearing on the application for a permit held by the division an oral or written statement or other information which relates to the draft of the permit.
2. The division shall, if appropriate:
 - (a) Set reasonable limits upon the time allowed for oral statements;
 - (b) Require persons submitting oral statements to submit the statements in writing; and
 - (c) Extend the period allowed for the submission of comments and information by interested persons to the close of the hearing.
3. Upon the request of the operator, the division shall provide him with copies of all comments made and information submitted before and during the hearing.
4. If the operator desires a verbatim record of the hearing, he must bear the cost of making such a record.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.210 Statement by division responding to public comments.

1. If the division issues a final permit, it shall, if applicable, issue at the same time a statement responding to the comments received on the matter.
2. A copy of the statement must be sent to the operator and all persons submitting comments or information and will be made available for inspection by the public.
3. The statement must:
 - (a) Set forth the provisions, if any, in the draft permit that have been changed in the final permit, and the reasons for the change;
 - (b) Briefly describe and respond to all significant comments and information submitted; and
 - (c) State that any person aggrieved by the division's decision may appeal the decision pursuant to NAC 519A.415.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.215 Transfer of permit to new operator.

1. The division shall transfer a permit to a new operator if the new operator submits to the division:
 - (a) A statement that he agrees to assume responsibility for the reclamation of any affected land which is the subject of the existing permit;
 - (b) If the exploration project or mining operation is on privately owned land, a surety to ensure that reclamation will be completed;
 - (c) If the exploration project or mining operation is on public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency, evidence that a surety acceptable to that agency has been filed; and
 - (d) If the exploration project or mining operation is on privately owned and public land administered by the Bureau of Land Management, the United States Forest Service or another federal land management agency either:
 - (1) Evidence that a surety acceptable to the federal agency has been filed with the agency which covers reclamation of all disturbed land, including privately owned and public land; or
 - (2) A surety to cover:
 - (I) The cost of reclamation on privately owned land, in a form and amount acceptable to the division; and
 - (II) Evidence that a surety acceptable to the Bureau of Land Management, the United States Forest Service or another federal land management agency has been filed with the agency for reclamation of land.
2. The division shall transfer a permit to a new operator within 30 days after it receives the information and documentation required by subsection 2 unless the current operator requests that the transfer be made on a later date.
3. The division shall not transfer a permit to an operator who is in violation of any provision of:
 - (a) NAC 519A.010 to 519A.415, inclusive;
 - (b) Chapter 519A of NRS; or
 - (c) An approved plan for reclamation, and to whom a notice of noncompliance has been served and remains outstanding pursuant to NAC 519A.400.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.220 Suspension or revocation of permit. If the division suspends or revokes a permit for noncompliance with the provisions of:

1. NAC 519A.010 to 519A.415, inclusive;
 2. Chapter 519A of NRS; or
 3. An approved plan for reclamation,
- the revocation or suspension is effective not later than 30 days after the operator is sent written notice by the division setting forth the facts or conduct warranting the revocation or suspension.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.225 Fees for application for permit.

1. An applicant for a permit for an exploration project shall submit to the division an application fee of:
 - (a) One dollar and fifty cents for each acre of affected and unreclaimed public land included in the plan for reclamation; and
 - (b) Two dollars and fifty cents for each acre of affected and unreclaimed privately owned land included in the plan for reclamation.
 2. An applicant for a permit for a mining operation shall submit to the division an application fee of:
 - (a) One dollar and fifty cents for each acre of affected and unreclaimed public land administered by a federal land management agency and included in the plan for reclamation; and
 - (b) Two dollars and fifty cents for each acre of affected and unreclaimed privately owned land included in the plan for reclamation.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.227 Fee for modification to permit (NRS 519A.160)

1. The fee for a minor modification to a permit for an exploration project or a permit for a mining operation is one-half the amount of the applicable annual fee for the permit.
 2. The fee for a major modification to a permit for an exploration project or a permit for a mining operation is equal to the amount of the applicable annual fee for the permit.
 3. For the purpose of this section, the following are not modifications:
 - (a) An increase or decrease in the amount of surety necessary to cover the cost of reclamation as determined by the 3-year periodic review of the amount of surety required by NAC 519A.380; or
 - (b) Changes to the proposed seed mix for reclamation.
- (Added to NAC by Environmental Comm'n, by R020-02, eff. 4-5-2002)

NAC 519A.230 Submission of fee if permit not issued. If a permit is not issued by April 15, 1991, the operator of an exploration project or mining operation that is active on October 1, 1990, shall submit to the division the fee set forth in NAC 519A.235.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.235 Annual submission of fees for services by division. (NRS 519A.160)

1. On or before April 15, 1991, and on or before April 15 of each year thereafter, an operator of an exploration project or mining operation shall submit to the division for services rendered by the division the applicable fees required by this section.
 2. For each exploration project which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division, the operator shall submit to the division:
 - (a) If the total affected area is 20 acres or less, a fee of \$100.
 - (b) If the total affected area is more than 20 acres but not more than 100 acres, a fee of \$ 500.
 - (c) If the total affected area is more than 100 acres but not more than 500 acres, a fee of \$ 1,000.
 - (d) If the total affected area is more than 500 acres, a fee of \$ 2,000.
 3. For each mining operation which is active on October 1, 1990, and for which a permit has been issued by the division or an application for a permit has been submitted to the division, the operator shall submit to the division:
 - (a) If the total affected area is 50 acres or less, a fee of \$500.
 - (b) If the total affected area is more than 50 acres but not more than 200 acres, a fee of \$ 1,500.
 - (c) If the total affected area is more than 200 acres but not more than 500 acres, a fee of \$ 3,000.
 - (d) If the total affected area is more than 500 acres but not more than 1,000 acres, a fee of \$ 4,500.
 - (e) If the total affected area is more than 1,000 acres but not more than 2,500 acres, a fee of \$ 9,000
 - (f) If the total affected area is more than 2,500 acres but not more than 5,000 acres, a fee of \$ 12,000
 - (g) If the total affected area is more than 5,000 acres, a fee of \$ 16,000
- (Added to NAC by Environmental Comm'n, eff. 9-19-90; A by R020-02, 4-5-2002)

NAC 519A.240 Time for submission of fees for new exploration projects and mining operations. For new exploration projects or new mining operations, the fees set forth in NAC 519A.235, as applicable, must be submitted to the division by the operator on April 15 of each year following issuance of the permit for the exploration project or mining operation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

Reclamation of Land

NAC 519A.245 Circumstances under which reclamation is required. Reclamation of affected land which was disturbed:

1. On or after January 1, 1981, and before October 1, 1990, must be required as part of a permit if the land was disturbed by the current operator. The standards for reclamation required by the Bureau of Land Management, the United States Forest Service or another federal land management agency at the time the disturbance was created apply to federal and privately owned land.
 2. Before January 1, 1981, is not required.
 3. By someone other than the current operator must not be required, unless the current operator is using the affected land in an active project or operation.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.250 Exemption of open pits and rock faces from requirements.

1. An operator may request in writing that the division grant an exception to the requirements for reclamation for open pits and rock faces which may not be feasible to reclaim.
2. If the operator proves to the satisfaction of the division that reclamation is not feasible, the division shall exempt an open pit or rock face from the requirements for reclamation of NAC 519A.010 to 519A.415, inclusive.
3. The division shall base its determination of the feasibility of reclaiming open pits and rock faces on the technological and economic practicability of achieving a safe and stable condition suitable for a productive post-mining land use. The division shall consider, without limitation, the:
 - (a) Topography of the site;
 - (b) Geology and stability of the site;
 - (c) Time required to complete reclamation;
 - (d) Consumption of resources required to complete reclamation;
 - (e) Potential adverse environmental impacts to the quality of the air and water associated with the activities for reclamation; and
 - (f) Future access to mineral resources.
4. Upon request by the applicant, the return of material to the open pit from which it was extracted shall be considered to be not feasible for the purposes of reclamation.
5. If an open pit or rock face is exempted from reclamation, public safety must be provided for by means other than reclamation, including, but not limited to, restrictions on access to the site or restrictions on the deed to the property.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.255 Reclamation not required beyond that approved by federal agency. If an operator can establish to the satisfaction of the division that reclamation was approved by the Bureau of Land Management, the United States Forest Service or another federal land management agency, further reclamation is not required on affected land.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.260 Considerations in preparing plan for reclamation. When preparing his plan for reclamation an applicant must consider:

1. The pre-mining and post-mining use of the land;
2. The technical and economic practicability of the proposed techniques for reclamation;
3. The effectiveness of the proposed activities for reclamation in ensuring public safety;
4. The annual precipitation of the area and its effect on revegetation and the potential for erosion;
5. The existing and proposed post-mining topography in relation to the potential for erosion;
6. The potential for degradation of surface-water or ground-water quality resulting from the proposed activities for reclamation;
7. The visual impact of the reclamation;
8. Any other criteria which may affect the applicability of a particular activity for reclamation, including types of soil and the physical and chemical characteristic of the soil; and
9. Whether the disturbance was created before or after September 19, 1990.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.265 Contents of plan for reclamation for exploration project. A plan for reclamation for an exploration project must include:

1. A topographic map or sketch in sufficient detail to allow the division to locate the area to be explored and determine the potential for adverse effects on surface water which may result from the exploration activities.
2. A description of any land within the project area which was affected by:
 - (a) A project conducted by a previous operator and which is inactive on the date on which the application for a permit for an exploration project is filed;
 - (b) The current operator before January 1, 1981, and is inactive on the date on which the application for a permit for an exploration project is filed;
 - (c) The current operator before January 1, 1981, and is active on the date on which the application for a permit for an exploration project is filed;
 - (d) The current operator on or after January 1, 1981, but before October 1, 1990, and which is inactive on the date on which the application for a permit for an exploration project is filed; and
 - (e) The current operator on or after January 1, 1981, but before October 1, 1990, and which is active on the date on which the application for a permit for an exploration project is filed.
3. A description of any land within the project area:
 - (a) On which the operation is active on or after October 1, 1990; and
 - (b) Comprising access roads which were created before January 1, 1981.
4. A description of the techniques for prospecting and excavation to be used which will affect the surface.
5. The proposed location and approximate length and width of access roads.
6. The measures to be taken, if any, to minimize the sedimentation of surface water during the life of the project.
7. The estimated amount of acreage that will be disturbed by the project.
8. The anticipated schedule for the project and for reclamation.
9. The proposed use of the areas to be affected if different from the pre-exploration use.
10. The activities for reclamation to be undertaken during and upon completion of the project.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.270 Contents of plan for reclamation for mining operation. The plan for reclamation for a mining operation must include:

1. A topographic map of the area of the operation depicting:
 - (a) The boundaries of the area of the operation;
 - (b) Surface ownership of the land within the area of the operation;
 - (c) The areas to be affected in sufficient detail so that they can be located from the ground;
 - (d) The kind of disturbances, including:
 - (1) Tailings impoundments;
 - (2) Leach pads;
 - (3) Waste rock dumps;
 - (4) Buildings;
 - (5) Roads; and
 - (6) All other surface facilities; and
 - (e) A description of the land within the area of operation which was affected by:
 - (1) An operation conducted by a previous operator and which is inactive on the date on which the application for a permit for an operation is filed;
 - (2) The current operator before January 1, 1981, and which is inactive on the date on which the application for a permit for an operation is filed;
 - (3) The current operator before January 1, 1981, and which is active on the date on which the application for a permit for an operation is filed;
 - (4) The current operator on or after January 1, 1981, but before October 1, 1990, and which is inactive on the date on which the application for a permit for an operation is filed; and
 - (5) The current operator on or after January 1, 1981, but before October 1, 1990, and which is active on the date on which the application for a permit for an operation is filed.
 2. A description of any land within the area of operation:
 - (a) On which the operation is active on or after October 1, 1990; and
 - (b) Comprising access roads which were created before January 1, 1981.
 3. The location of any surface water body within one-half-mile down gradient of the operation which may be impacted by excess sedimentation resulting from the mining operations.
 4. An estimate of the number of acres affected by each type of disturbance.
 5. A proposed productive post-mining use of the land.
 6. A proposed schedule of the time for initiation and completion of activities for reclamation.
 7. The proposed post-mining topography.
 8. The technical criteria used to determine the final gradient and stability of slopes created or affected by the mining operation.
 9. The proposed methods to be used in reclaiming impoundments used during the operation.
 10. A statement of any constraints on the estimated time to complete reclamation caused by the residual moisture content or physical or chemical qualities of impoundments.
 11. The kinds of access roads and their estimated width and length which will be built and the manner in which they will be reclaimed.
 12. The measures which will be used to minimize loading of sediment to surface waters during the operation and reclamation.
 13. The proposed revegetation of the land for its post-mining land use, including:
 - (a) A plan for the management of topsoil and growth medium;
 - (b) A list of each species of vegetation;
 - (c) The rate of seeding of vegetation;
 - (d) The type of fertilizer and mulch to be used; and
 - (e) When the planting will occur.
 14. The proposed disposition of:
 - (a) Buildings;
 - (b) Equipment;
 - (c) Piping;
 - (d) Scrap;
 - (e) Reagents; and
 - (f) Any other equipment and materials.
 15. A description of any surface facilities such as buildings or roads which will not be reclaimed.
 16. A description of any necessary monitoring and maintenance of fences, signs and other structures which will be performed by the operator on the reclaimed land.
 17. A description of any reclamation which is necessary because of instream mining.
 18. A statement of the effect that the proposed reclamation will have on future mining in the area.
 19. A statement setting forth the effect that the proposed reclamation will have on public safety.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.275 Requirements for productive post-mining use of land.

1. A productive post-mining use of the land required to be submitted with a plan for reclamation need not provide a use of the land and degree of productivity which is identical with the use of the land before the mining began or the use of the adjacent land or the degree of use.

2. Land which is returned to its pre-mining use or reclaimed after mining or exploration to a level of productivity which is generally consistent with the pre-mining level of productivity or the level of productivity of the surrounding land shall be deemed to be a productive post-mining use.

3. Land which is reclaimed to a degree of productivity which is less productive than its pre-mining use shall be deemed to be productive if the operator takes reasonable measures, including, but not limited to:

- (a) Ensuring adequate fertilization of the soil;
- (b) Ensuring the quantity and quality of the topsoil or growth medium; and
- (c) Establishing a productive post-mining use of the land within site-specific economic and technical constraints of the area.

4. Land subject to excessive erosion will not be deemed to be reclaimed to a productive post-mining use unless excessive erosion existed before mining or exists on the adjacent land. Evidence of the excessive erosion must be provided by the operator to the division.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.280 Approval required of proposed post-mining use of land. Notwithstanding any other provisions of NAC 519A.010 to 519A.415, inclusive, a proposed post-mining use of the land must be approved by the federal land manager on land subject to the jurisdiction of the Bureau of Land Management, the United States Forest Service, another federal land management agency or the owner of record of the land.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.285 Time for initiation of reclamation; extension of time; completion of reclamation.

1. If affected land cannot practicably be reclaimed concurrently with an exploration project or mining operation, reclamation must be initiated:

- (a) Within 2 years after completion or abandonment of the exploration project or mining operation;
- (b) Within 3 years after a temporary closure of an exploration project or mining operation; or
- (c) As required by the Bureau of Land Management, the United States Forest Service or another federal land management agency.

2. The division may grant one or more extensions of the time when reclamation must begin if the operator of an exploration project or mining operation demonstrates that a reasonable likelihood exists that the project or operation will resume, based on a consideration of factors including, but not limited to:

- (a) The presence of additional mineralization of the commodity being mined or other commodities in commerce;
- (b) Historical fluctuations in the value of the commodity being mined or other commodities present if they can be mined using the same disturbances;
- (c) The design life of any beneficiation process components existing at a mining operation; and
- (d) If the closure was caused because of litigation.

Each extension is for a 3-year period.

3. Once initiated, final reclamation activities must be completed as set forth in an approved plan for reclamation, unless the exploration project or mining operation is reactivated.

4. As used in this section, "process component" has the meaning ascribed to it in NAC 445A.375.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.290 Departure from approved plan for reclamation.

1. An operator may not depart from an approved plan for reclamation without a modification of the plan which is approved by the division or other written approval from the division except in the case of an emergency.

2. As used in this section, emergency means a situation in which compliance with a provision of an approved plan for reclamation may result in bodily injury or in environmental damage not anticipated in the plan.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.295 Procedure for operator to modify plan for reclamation.

1. An operator may request a modification to a plan for reclamation:

(a) By submitting to the division a written request and those portions of the application for a permit which are applicable to the requested modification, including, a revision to the calculated cost of executing the plan for reclamation and the amount of surety, if applicable; and

(b) For any reason, including:

- (1) A proposed change in the post-mining land use;
- (2) The addition of a new disturbance to the affected land; and
- (3) Proposed changes to the methods and techniques which will be used for reclamation.

2. The division shall review a request for a major modification to a plan for reclamation or a minor modification to a plan for reclamation of a mining operation and notify the applicant if additional information is required within 15 days after the receipt of the request. The notice must state the information which is required.

3. If the applicant provides additional information to complete a request, the division shall notify the applicant if more additional information is required within 15 days after receipt of the additional information. The notice must state the additional information which is required.

4. The division shall issue a notice of intent to allow or deny the request within 15 days after the later of:
 - (a) The close of the period for public comment provided in NAC 519A.190; or
 - (b) The receipt of the request for modification and the corresponding fees.
5. If the request for a modification is denied, the division shall notify the applicant of:
 - (a) The reasons for denial; and
 - (b) The time allowed and procedures for appealing the decision pursuant to NAC 519A.415.
6. A request for a minor modification to a plan for reclamation of an exploration project shall be approved or denied, and the reason for denial given, within 10 days after the request for modification is submitted.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.300 Modification by division of plan for reclamation.

1. The division, on its own motion, may modify an approved plan for reclamation if:
 - (a) A provision of the plan is in conflict with the provisions of a specific statute;
 - (b) It becomes impossible or impracticable to comply with any provision of the plan; or
 - (c) A significant problem is discovered to exist which results or may result from compliance with any provision of the plan.
 2. If the division, on its own motion, modifies a plan it:
 - (a) Shall notify the operator in a manner which allows the operator sufficient time to appeal the modification; and
 - (b) State the time allowed for an appeal of the decision in the modified plan.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.305 Requirements for notice and public comment before modifying plan for reclamation.

1. The division shall, at least 30 days before making a major modification to a plan for reclamation of a mining operation:
 - (a) Circulate a public notice of the intent to modify the plan in a manner intended to inform interested persons;
 - (b) Cause to be published in a newspaper of general circulation within the geographic area of an exploration project or mining operation, a notice of the intent to modify the plan; and
 - (c) Mail to the operator, the landowner, members of the board of county commissioners of the county in which the project or operation is located, the division of minerals and any other person who so requests, written notice of the intent to modify the plan.
 2. Notice given pursuant to subsection 1 must include:
 - (a) The name, address and telephone number of the division;
 - (b) The name and address of the operator;
 - (c) The location of the project or operation;
 - (d) A description of the procedure which the division will use to make a final decision to modify a plan;
 - (e) The specific location where interested persons may obtain further information or inspect and copy relevant forms and documents; and
 - (f) A statement that interested persons must submit to the division written comments on the tentative decision of the division within 30 days after the date on which the notice is published.
 3. The division:
 - (a) Shall allow written comments and information and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a major modification to a plan for reclamation.
 - (b) Is not required to allow written comments and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a minor modification to a plan for reclamation.
 4. As used in this section, "major modification" includes only:
 - (a) A change in the post-mining land use that requires reclamation techniques which are significantly different from the techniques in the approved plan;
 - (b) The addition of a type of disturbance not previously included in the approved plan and which cannot be reclaimed in a manner which is substantially similar to the reclamation techniques included in the approved plan;
 - (c) Other modifications to the approved reclamation activities which significantly increase the amount of surety required and are not a minor modification; or
 - (d) A change in the visual appearance of the reclaimed areas which is substantially different than the visual appearance which was discussed or commented upon during the public comment period.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.310 Approval of modification to approved plan for reclamation of public land. A modification to an approved plan for reclamation of public land which is managed by a federal land management agency must be:

1. Approved by the federal agency; and
 2. Approved by the division.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.315 Manner for abandonment of site; selection of appropriate activities for reclamation of site.

1. The abandonment of a site must be conducted in a manner which ensures public safety, encourages techniques to minimize adverse visual effects and establishes a safe and stable condition suitable for the productive post-mining use of the land.
2. In selecting appropriate activities for reclamation for a particular site, techniques which minimize adverse visual impact must be considered.

3. As used in this section, ensure public safety includes minimizing hazards in areas to which the public may have legal access by, if applicable:

- (a) Removing or burying structures, equipment, reagents or scrap;
- (b) Sealing or securing shafts, tunnels and adits pursuant to NAC 513.390;
- (c) Plugging drill holes;
- (d) Leaving slopes in a structurally stable condition; and
- (e) Restricting access to areas which cannot practicably be made safe.

4. As used in this section, "stable condition" means a condition that is resistant to excessive erosion and is structurally competent to withstand normal geologic and climatic conditions without significant failure that would be a threat to public safety and the environment.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.320 Notification by operator of completion, abandonment or suspension of work on exploration project or mining operation.

1. An operator shall notify the division in writing within 90 days after an exploration project or mining operation is completed or abandoned. The notice must state the date on which the activities for reclamation included in the approved plan for reclamation will begin.

2. Except as otherwise provided in subsection 3, the operator shall notify the division in writing within 90 days after work is suspended on an exploration project or mining operation for more than 120 days. The notice must state:

- (a) The nature and reason for the suspension;
- (b) The anticipated duration of the suspension; and
- (c) Any event which would reasonably be expected to result in either the resumption of activities or the abandonment of the project or operation.

3. A temporary closure caused by weather conditions does not require notice pursuant to subsection 2 of this section.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.325 Removal and stockpiling of topsoil; avoidance of depression in land.

1. If practicable and necessary for the establishment of the post-mining use of the land, sufficient topsoil, if available, must be removed during the creation of a disturbance and stockpiled for use in future reclamation. The stockpile must be posted to identify the material, and stabilized as necessary to prevent excessive losses from erosion. If topsoil is unavailable, any growth medium to be used that requires removal and stockpiling must be managed in the same manner as topsoil.

2. The creation of a depression during reclamation which may form a pond must be avoided unless the pond is part of the post-mining use of the land.

3. As used in this section, stabilized means the condition which results when an area which has been reclaimed no longer exhibits a potential to impact adversely public safety or the environment.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.330 Revegetation of land.

1. An operator shall:

(a) Select and establish species of plants that will result in vegetation productivity comparable to that growing on the affected lands before commencement of the exploration project or mining operation, which is required by the manager of the land or which is consistent with the post-mining use of the land.

(b) Consult a person with experience in revegetation or test the land before the selection of plants.

2. The operator may rely upon available technical data and the results of field tests when selecting seeding practices and soil amendments which will result in viable vegetation. These practices of selection may be included in the plan for reclamation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.335 Authority of division to approve appropriate methods of reclamation. The division may approve any appropriate method of reclamation for exploration projects and mining operations if the method is consistent with the provisions of NAC 519A.010 to 519A.415, inclusive.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.340 Authority of division to request operator of exploration project to perform certain types of reclamation. The division may, if appropriate, request an operator of an exploration project to reclaim:

1. Roads and drill pads by:

- (a) Recontouring or regrading to round off, cut and fill slopes;
- (b) Removing culverts;
- (c) Ripping or scarifying the surface;
- (d) Constructing water bars;
- (e) Revegetation; and
- (f) Restoring or stabilizing drainage areas and streambeds.

2. Drill holes from exploration by plugging the holes with the minimum surface plug required pursuant to chapter 534 of NRS.

3. Trenches and pits by:

- (a) Backfilling and regrading to approximate the form of the land before it was disturbed;

- (b) Regrading to make the land stable; and
 - (c) Revegetation.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90; A 9-5-91)

NAC 519A.345 Authority of division to require operator of mining operation to perform certain types of reclamation. (NRS 519A.160) The division may, if appropriate, require an operator of a mining operation to reclaim:

1. Roads and drill pads by:
 - (a) Recontouring or regrading to round off, cut and fill slopes to the original contour or to approximate the form of the land before its disturbance;
 - (b) Removing culverts;
 - (c) Ripping or scarifying the surface;
 - (d) Constructing water bars;
 - (e) Revegetation; and
 - (f) Restoring or stabilizing drainage areas or streambeds.
 2. Drill holes from exploration by plugging the holes with the minimum surface plug required pursuant to chapter 534 of NRS.
 3. Waste and development rock piles by:
 - (a) Regrading to round off sharp edges, enhance the stability, reduce susceptibility to erosion and facilitate efforts for revegetation;
 - (b) Revegetation; and
 - (c) Diverting run-on.
 4. Dams for tailings ponds by:
 - (a) Covering with waste rock, topsoil or growth medium;
 - (b) Revegetation; and
 - (c) Rendering the dam incapable of storing any mobile fluid in a quantity which could pose a threat to the stability of the dam or to public safety.
 5. Impoundments for tailings by:
 - (a) Regrading to promote run-off and reduce infiltration;
 - (b) Covering with waste rock, topsoil or growth medium;
 - (c) Revegetation;
 - (d) Process fluid stabilization; and
 - (e) Diverting run-on.
 6. Heaps from leaching by:
 - (a) Regrading to enhance structural stability, promote run-off, reduce infiltration and control erosion;
 - (b) Covering with waste rock, topsoil or growth medium;
 - (c) Revegetation;
 - (d) Process fluid stabilization; and
 - (e) Diverting run-on.
 7. Solution ponds, settling ponds and other nontailings impoundments by:
 - (a) Backfilling and regrading to approximate the natural land form; and
 - (b) Restoring the regime of the surface water to the regime that existed before the disturbance.
 8. Buildings, foundations, facilities, structures and other equipment by:
 - (a) Demolishing to the level of the foundation and burying the demolished items on the site in conformance with applicable requirements for the disposal of solid waste;
 - (b) Salvaging and sale;
 - (c) Disposal off of the site in conformance with applicable requirements for the disposal of solid waste; and
 - (d) Continuing use in a manner consistent with the post-mining land use.
 9. Open pit mines by:
 - (a) Performing activities that will provide for public safety;
 - (b) Stabilizing pit walls or rock faces where required for public safety;
 - (c) Constructing and maintaining berms, fences or other means of restricting access;
 - (d) Creating a lake for recreational use, wildlife or other uses; and
 - (e) Revegetation.

Reclamation of open pits or rock faces does not require backfilling although backfilling in whole or in part with waste rock from an adjacent mining operation may be encouraged if backfilling is feasible and does not create additional negative environmental impacts.
 10. Underground mines by:
 - (a) Sealing shafts, adits, portals and tunnels to prevent access; and
 - (b) Constructing and maintaining berms, fences or other means of restricting access.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90; A 9-5-91; R090-00, 7-27-2000)

Provision of Surety

NAC 519A.350 General requirements. (NRS 519A.160)

1. An operator shall file a surety with the division or a federal land management agency, as applicable, to ensure that reclamation will be completed on privately owned and federal land. The surety may be:

- (a) A trust fund;
- (b) A bond;
- (c) An irrevocable letter of credit;
- (d) Insurance;
- (e) A corporate guarantee; or
- (f) Any combination thereof.

2. If the surety is a trust fund:

(a) The operator shall make a payment to the trust fund annually for the term of the exploration project or mining operation.

(b) The initial payment to the trust must be:

(1) For a new exploration project or mining operation made before the land is affected.

(2) For an exploration project or mining operation which is active on October 1, 1990, made within 60 days after the operator receives a permit from the division.

(3) At least the amount required for reclamation pursuant to NAC 519A.360 divided by the number of years in the term of the project or operation.

(c) The annual payments must be:

(1) Made within 90 days after each anniversary date of the first payment.

(2) The difference between the amount required for reclamation pursuant to NAC 519A.360 and the current amount of the trust fund divided by the number of years remaining in the term of the project or operation.

3. If the surety is the bond of a corporation:

(a) It must contain an indemnity agreement guaranteeing payment to a trust fund for reclamation, the division or a federal land management agency, if applicable.

(b) It must state that the operator shall faithfully perform all requirements of the permit issued by the division.

(c) The corporation must be licensed to do business in the State of Nevada.

4. The operator may provide evidence of a surety provided by the program for the pooling of reclamation performance bonds developed by the division of minerals pursuant to NRS 519A.290.

5. If the surety is an irrevocable letter of credit, the letter of credit must:

(a) Be executed and issued by a bank authorized and doing business in the State of Nevada or a correspondent bank which is authorized to do business in the State of Nevada.

(b) Be made at the request of the operator.

(c) State that the issuing bank will honor drafts for payment upon compliance with the terms of the credit.

(d) Be irrevocable and issued for a period of at least 1 year.

The operator shall notify the division at least 60 days before the expiration of the letter of credit. The notice must state whether it will be renewed or replaced with another form of surety.

6. If the surety is insurance:

(a) The operator shall submit to the division a certified financial statement for the financial warrantor's most recent fiscal year and a certification by an independent auditor that, as of the close of the year, the financial warrantor meets the requirements of this subsection. The financial statement must set forth all nonrecurring items which affect net income.

(b) The net worth of the financial warrantor must be at least:

(1) Ten million dollars; and

(2) Twice the amount of all financial warranties.

(c) The tangible fixed assets of the financial warrantor in the United States must be worth at least \$20,000,000.

(d) The ratio of the liabilities to the net worth of the financial warrantor must not be more than 2 to 1.

(e) The net income, excluding nonrecurring items, of the financial warrantor must be positive.

(f) The financial warrantor must be authorized to conduct the business of insurance in the State of Nevada.

7. If the surety is a corporate guarantee:

(a) Not more than 75 percent of the required surety may be satisfied by the corporate guarantee, which is subject to periodic review and approval by the administrator of the division. The remaining portion of the surety must be satisfied by a surety identified in this section.

(b) The audited financial statements of the corporation must indicate that the corporation has two of the following three ratios:

(1) A ratio of total liabilities to stockholder's equity less than 2 to 1.

(2) A ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1 to 1.

(3) A ratio of current assets to current liabilities greater than 1.5 to 1.

(c) The net working capital and tangible net worth each must equal or exceed the amount established for reclamation pursuant to NAC 519A.360.

(d) The tangible net worth must be at least \$10,000,000.

(e) Ninety percent of the assets of the corporation must be:

(1) Located in the United States; or

(2) At least 6 times the amount established pursuant to NAC 519A.360.

8. Any financial information submitted to the division pursuant to this section must be prepared in accordance with accounting principles that are generally accepted in the United States.
(Added to NAC by Environmental Comm'n, eff. 9-19-90; A by R089-01, 10-25-2001)

NAC 519A.355 Provision of statewide surety for exploration projects. The applicant for a permit for an exploration project may provide a statewide surety for all projects conducted within the State of Nevada.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.360 Amount of surety required.

1. The operator shall provide surety in an amount sufficient to ensure reclamation of:
 - (a) The entire area to be affected by his project or operation; or
 - (b) A portion of the area to be affected if, as a condition of the issuance of the permit, filing additional surety is required before the operator disturbs land not covered by the initial surety.
2. Except as otherwise provided in subsection 6, the amount of surety required must be based on an estimate of the cost of executing the plan for reclamation which would be incurred by the state or federal agency having jurisdiction over the land.
3. The operator's estimate of the cost for reclamation must be based on either:
 - (a) The costs of equipment rental, operation and labor appropriate for the geographic area;
 - (b) Estimated costs provided by an outside contractor; or
 - (c) Any other method which is acceptable to the administrator, the Bureau of Land Management, the United States Forest Service or another federal land management agency, if applicable.
4. In determining the cost of executing the plan for reclamation, the operator shall consider all activities in the plan for reclamation that are required by NAC 519A.010 to 519A.415, inclusive or chapter 519A of NRS, including, if appropriate:
 - (a) Earth moving, regrading, stabilization of heaps and dumps, recontouring of roads and erosion control;
 - (b) Process fluid stabilization;
 - (c) Revegetation, preparation of seedbed and planting;
 - (d) Demolition of buildings and other structures;
 - (e) Removal and disposal or salvage of buildings, structures, equipment, piping, scrap and reagents;
 - (f) Any ongoing or long-term activities which are required to maintain the effectiveness of reclamation or are necessary in lieu of reclamation, including periodic clean-out of sediment basins or maintenance of berms and fences which are used to prevent access to areas which pose a threat to the public safety;
 - (g) Equipment mobilization and demobilization; and
 - (h) Administration and management by the division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if applicable.
5. In determining the cost of executing the plan for reclamation the operator is not required to consider the cost of any activity not included in the plan for reclamation or not required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS. This subsection does not limit in any way the authorities of the Bureau of Land Management, the United States Forest Service or another federal land management agency to require surety for purposes other than those of NAC 519A.010 to 519A.415, inclusive, and chapter 519A of NRS.
6. The department shall require surety in the amount prescribed in subsections 2 to 5, inclusive, unless the operator demonstrates to the satisfaction of the administrator that a lesser amount will be sufficient to ensure that the required reclamation will be completed. The division shall consider:
 - (a) The financial strength of the company;
 - (b) The value of the assets of the company;
 - (c) Past reclamation performance of the company;
 - (d) Extent of proposed concurrent reclamation;
 - (e) Ease of implementation of the proposed reclamation plan; and
 - (f) Other factors presented by the applicant.
(Added to NAC by Environmental Comm'n, eff. 9-19-90; A by R090-00, 7-27-2000)

NAC 519A.365 Submission to division of information regarding estimation of costs for reclamation. The operator shall submit, on a form provided by the division or in a similar manner:

1. Documentation for his calculation of the cost of executing the plan for reclamation;
 2. The source of his estimates of costs;
 3. A list of specific activities which will be performed to reclaim the affected acres such as those in NAC 519A.360 for each type of disturbance; and
 4. The total acreage of each disturbance requiring the same activity to be performed for reclamation.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.370 Determination of whether estimate of cost for reclamation is sufficient.

1. The division shall review the operator's estimate of the cost for reclamation and determine if the estimate is reasonably sufficient to conduct all required reclamation.
 2. If the division determines that the estimated cost of executing the plan for reclamation is insufficient to conduct all required reclamation, the application for a permit shall be considered to be incomplete.
- (Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.375 Disturbances of land for which surety not required. Surety will not be required for reclamation of land disturbances which were created before October 1, 1990, and which are no longer active as part of an active exploration project or mining operation on October 1, 1990.
(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.380 Periodic review of amount of surety; notification required; adjustment of amount.

1. Within 3 years after the effective date of the permit and at least every 3 years thereafter, an operator shall review the amount of surety filed to cover the cost of reclamation to determine whether it is still adequate to execute the approved plan for reclamation taking inflation into consideration.

2. The operator shall:

(a) Notify the division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if appropriate, of the results of the review of the surety; and

(b) Within 120 days after the review:

(1) Request a decrease in the surety; or

(2) Increase the surety,

to execute the plan for reclamation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.382. Annual review of corporate guarantee: Submission of fee or arrangement for third-party review. (NRS 519A.160) If an operator has filed a corporate guarantee to meet the surety requirements of NAC 519A.350, the operator shall, on or before April 15 of each calendar year:

1. Submit to the division an annual review fee of \$ 10,000; or

2. Arrange for an annual review by a third-party financial consultant to demonstrate to the satisfaction of the division that the operator has adequate financial security.

(Added to NAC by Environmental Comm'n by R020-02, eff. 4-5-2002)

NAC 519A.385 Release of surety: Request for release; conditions; denial of request.

1. The division may release a surety either in whole or in part at the request of the operator.

2. The entire surety must not be released until all of the requirements of the permit have been fulfilled, except that:

(a) A portion of the surety covering the reclamation of a discrete part of a disturbance must be released when the requirements of the permit regarding the discrete part of the disturbance have been fulfilled.

(b) That portion of the surety covering a discrete activity must be released when the requirements of the permit regarding that discrete activity have been fulfilled.

(c) Except as otherwise provided in subsection 3, if revegetation is part of the plan for reclamation, 60 percent of the posted surety must be released upon completion of the earthwork. After revegetation has been performed by the operator on the regraded lands, according to the approved plan for reclamation, the division may release an additional 25 percent of the surety. The remaining surety must not be released until all requirements of the permit have been satisfied.

(d) Upon transfer of a permit to a new operator and upon acceptance of the required surety from the new operator, the division shall release the surety posted by the original operator.

3. Percentages greater than those specified in paragraph (c) of subsection 2 may be released if the operator demonstrates that the remaining surety is sufficient to ensure completion of the required reclamation.

4. Within 30 days after receiving a request for release of a surety, the agency holding the surety, or its designated agent pursuant to NRS 519A.140, shall inspect the permitted exploration project or mining operation to determine whether the operator has fulfilled the requirements of his permit and either:

(a) Release the surety or portion thereof as requested; or

(b) Notify the operator that the requested surety will not be released, the reasons why and the measures necessary to satisfy the requirements of the permit.

5. If a request to release is denied, the operator may appeal the decision pursuant to NAC 519A.415.

6. The 30 days within which an agency must respond to a request to release a surety pursuant to subsection 3 may be extended if weather conditions prevent an inspection of the reclaimed area.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.390 Forfeiture of surety: Grounds; notice and hearing.

1. A surety filed with the division, the Bureau of Land Management, the United States Forest Service or another federal land management agency is subject to forfeiture if:

(a) An exploration project or mining operation has been completed, abandoned, or temporarily closed for a period greater than allowed pursuant to NAC 519A.285 without initiating activities for reclamation;

(b) The permit is suspended or revoked pursuant to NAC 519A.220; or

(c) The operator ceases to conduct business in the State of Nevada and does not transfer the permit to a new operator.

2. The division shall notify an operator personally or by registered mail that his surety is subject to forfeiture, and inform him of his right to a hearing before the commission. A hearing must be scheduled pursuant to NAC 519A.400, or pursuant to NAC 519A.220 if the permit is suspended or revoked.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

Trust Fund for Short-Term Fluid Management

NAC 519A.392 Payments for deposit into fund; use and reimbursement of money in fund. (NRS 519A.160)

1. In addition to the surety required pursuant to NAC 519A.350, on or before October 1, 2000, an operator of a mining operation that is required to hold a permit from the division of wildlife of the state department of conservation and natural resources pursuant to NRS 502.390 shall submit to the division:

- (a) Thirty-six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;
- (b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;
- (c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or
- (d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.

2. In addition to the surety required pursuant to NAC 519A.350 and the payment required pursuant to subsection 1, on or before April 15, 2001, an operator of a mining operation that is required to hold a permit from the division of wildlife of the state department of conservation and natural resources pursuant to NRS 502.390 shall submit to the division:

- (a) Thirty-six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;
- (b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;
- (c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or
- (d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.

3. In addition to the surety required pursuant to NAC 519A.350 and the payments required pursuant to subsections 1 and 2, on or before April 15, 2002, an operator of a mining operation that is required to hold a permit from the division of wildlife of the state department of conservation and natural resources pursuant to NRS 502.390 shall submit to the division:

- (a) Thirty-six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$35,000,000 as of the date the operator submits the money;
- (b) Twenty-four thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$7,000,000 but less than or equal to \$35,000,000 as of the date the operator submits the money;
- (c) Six thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is more than \$1,000,000 but less than or equal to \$7,000,000 as of the date the operator submits the money; or
- (d) One thousand dollars if the total amount of surety the operator is required to provide pursuant to NAC 519A.360 is less than or equal to \$1,000,000 as of the date the operator submits the money.

4. The division shall:

- (a) Establish the trust fund for short-term fluid management;
- (b) Deposit money collected pursuant to this section in the trust fund;
- (c) Credit all interest earned on the money in the trust fund to the trust fund;
- (d) Use the money in the trust fund only for the management of fluids at a site while the process for forfeiture of a surety pursuant to NAC 519A.390 is pending; and
- (e) After the conclusion of the process for forfeiture of a surety pursuant to NAC 519A.390, if the surety was forfeited, reimburse the trust fund with the surety that was forfeited. Such reimbursement must be in an amount equal to the total amount of money used from the trust fund at the site for which the surety was forfeited.

5. An operator that operates more than one mining operation in this state may combine the amount of surety required pursuant to NAC 519A.360 for each site to determine the total amount of surety the operator is required to provide pursuant to NAC 519A.360 for purposes of determining the amount of money to submit pursuant to this section.

(Added to NAC by Environmental Comm'n by R120-00, eff. 9-25-2000)

Enforcement

NAC 519A.395 Inspections by division and federal agencies; submission of results to operator.

1. The division may inspect an exploration project or mining operation to determine if it is in compliance with the terms and conditions of a permit and the status of activities for reclamation. Such an inspection must be conducted during normal business hours and the operator may be given adequate notice so that personnel familiar with the permit and its requirements may be present.

2. Pursuant to NRS 519A.140, the division, the Bureau of Land Management, the United States Forest Service or another federal land management agency may inspect a permitted exploration project or mining operation which is located on federal land or on both federal and private land to determine compliance with the terms and conditions of a permit and the status of activities for reclamation. Inspection of activities for reclamation on private property must be conducted during normal business hours and the operator may be given adequate notice so that personnel familiar with the permit and its requirements may be present.

3. The results of the inspection must be forwarded to the operator within 30 days of completion after the report of the inspection.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.400 Notice of noncompliance: Service; contents; withdrawal.

1. If the division has reason to believe that an operator has violated any provision of chapter 519A of NRS, NAC 519A.010 to 519A.415, inclusive, or an approved plan for reclamation, it shall serve a notice of noncompliance on the operator. The notice must:

(a) Be served personally or by registered mail addressed to the operator at the address shown in the records of the division;

(b) Specify each violation; and

(c) Set a date and time for a hearing and inform the operator that his permit may be suspended or revoked and his surety forfeited upon completion of the hearing or if he fails to attend the hearing.

2. The division may withdraw a notice of noncompliance and cancel a hearing required by subsection 1 of this section if the operator demonstrates that the alleged violation has been remedied or has agreed to a corrective plan of action approved by the division.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.405 Maximum amount of civil penalty. The civil penalty imposed by the division pursuant to NRS 519A.280 must not exceed \$5,000 per violation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

Miscellaneous Provisions

NAC 519A.410 Submission to division of information and documentation concerning small mining operations.

1. The operator of a small mining operation shall submit to the division:

(a) A sketch or topographic map of the operation depicting:

(1) The boundaries of the project area;

(2) Surface ownership within the project area;

(3) Areas to be affected and the nature of the disturbances including tailings impoundments, leach pads, waste rock dumps, buildings, roads and all other surface facilities;

(4) Areas within the project area which were previously affected by activities other than those of the operator or which will not be subject to additional or continuing disturbance because of his activities;

(5) The location of any body of surface water within one-half-mile down gradient from the operation which may be impacted by excess sedimentation resulting from the mining operations; and

(6) The location of access roads that were created before January 1, 1981.

(b) An estimate of the acreage affected by each type of disturbance set forth pursuant to subparagraph (3) of paragraph (a) of subsection 1.

(c) A proposed post-mining use of the land and general description of the manner in which the post-mining use of the land will be attained by reclamation.

2. The information and documentation required by subsection 1 must be submitted:

(a) By October 1, 1991, for a small mining operation which is active on October 1, 1990; or

(b) Before disturbance of the surface for a new small mining operation.

(Added to NAC by Environmental Comm'n, eff. 9-19-90)

NAC 519A.415 Appeals to commission.

1. Any person aggrieved by:

(a) The issuance, denial, renewal, suspension, modification, condition or revocation of a permit; or

(b) The issuance, modification or rescission of any other order,

by the state department of conservation and natural resources may appeal to the commission.

2. Any person who requests a hearing before the commission concerning a final decision of the department pursuant to chapter 519A of NRS may do so by filing a request, within 10 days after notice of the action of the department, on form 3* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.

3. The provisions of NAC 445B.875 to 445B.899, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.

4. The commission will affirm, modify or reverse any action of the department which is appealed to it.

*(See adopting agency for form.)

(Added to NAC by Environmental Comm'n, eff. 9-19-90; A 10-29-93)

DUTIES OF DIVISION OF MINERALS

General Provisions

NAC 519A.510 Definitions. (NRS 519A.250) As used in NAC 519A.510 to 519A.635, inclusive, unless the context otherwise requires, the words and terms defined in NAC 519A.512 to 519A.555, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A 3-4-92; A by Comm'n on Mineral Resources by R069-99, 8-19-99; R066-02, 8-23-2002)

NAC 519A.512 "Administrator" defined. "Administrator" means the administrator of the division.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)—(Substituted in revision for NAC 519A.530)

NAC 519A.515 "Bond pool" defined. (NRS 519A.290) "Bond pool" means the program for the pooling of reclamation performance bonds that collects, holds and distributes money paid to the pool by its participants to assist those participants to comply with:

1. The bonding and surety requirements of chapter 519A of NRS;

2. The requirements for financial guarantees set forth in the regulations adopted pursuant to 43 U.S.C. § 1740;

or

3. The bonding requirements imposed pursuant to an ordinance adopted by a county in this state.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A by Div. of Minerals, 11-14-97)

NAC 519A.520 "Commission" defined. "Commission" means the commission on mineral resources.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.525 "Division" defined. "Division" means the division of minerals of the commission on mineral resources.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.535 "Exploration project" defined. "Exploration project" means all activities conducted in this state by a person on or beneath the surface of land for the purpose of, or in connection with, determining the presence, location, extent, depth or grade of any mineral, which affects the surface.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A 3-4-92)

NAC 519A.540 "Mining operation" defined. "Mining operation" means all activities conducted in this state by a person on or beneath the surface of land for the purpose of, or in connection with, the development or extraction of any mineral. The term does not include an aggregate or sand pit.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A 3-4-92)

NAC 519A.545 "Operator" defined. "Operator" means any person who owns, controls or manages an exploration project or a mining operation.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.550 "Participant" defined. "Participant" means an operator who has paid money to the bond pool to cover his bonded liability and who is in good standing in the bond pool.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.552 "Plan" defined. (NRS 513.063m 519A.290) "Plan" means a plan of operation filed with and approved by the United State Bureau of Land Management or the United States Forest Service.

(Added to NAC by Comm'n on Mineral Resources by R066-02, eff. 8-23-2002)

NAC 519A.555 "Responsible regulatory authority" defined. "Responsible regulatory authority" means the governmental agency that has authority to require, modify, release or require forfeiture of a reclamation performance bond for a mining operation or an exploration project.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

Program for the Pooling of Reclamation Performance Bonds

NAC 519A.570 Administration by division; application for participation. (NRS 519A.290)

1. The division will administer the bond pool.
2. A person who wishes to participate in the bond pool must complete an application on a form provided by the division.
3. The application to participate in the bond pool must include a statement by the applicant and documentation that:
 - (a) Indicates whether the applicant has ever forfeited a bond or surety held for the reclamation of mined land and, if so, the location of the operation for which the bond or surety was forfeited and the circumstances of the forfeiture.
 - (b) Lists the location, scale and any other pertinent details of the previous mining or exploration activities of the applicant that required reclamation performance bonding during the preceding 10 years.
 - (c) Shows the structure of the business organization and the financial status of the applicant at the time of application. Except as otherwise provided in subsection 4, the documentation must include:
 - (1) An organizational chart naming any parent company;
 - (2) Current and long-term assets;
 - (3) Current and long-term liabilities;
 - (4) The net worth of the business organization; and
 - (5) Evidence that the financial statements have been reviewed by a certified public accountant and are a fair representation of the financial status of the applicant.
4. The administrator may waive the requirements of subparagraph (5) of paragraph (c) of subsection 3 for an applicant who:
 - (a) Applies for bond coverage of \$10,000 or less; and
 - (b) Submits to the administrator a signed and notarized affidavit stating under penalty of perjury that the information provided by the applicant pursuant to subparagraphs (2), (3) and (4) of paragraph (c) of subsection 3 is true.(Added to NAC by Dep't of Minerals, eff. 10-9-90; A 9-16-92; A by Div. of Minerals, 11-14-97)

NAC 519A.575 Submission of information by applicant; prequalification of applicant.

1. An applicant may submit any part of the information required by NAC 519A.570 before submitting the remaining required information.
 2. The administrator or his designee may pre-qualify an applicant for participation in the bond pool, subject to receipt and final review of any materials required to complete the application.
- (Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.580 Notification of applicant; right to appeal denial of application. The division will notify the applicant within 20 business days after receipt of an application that:

1. The applicant has been accepted to participate in the bond pool subject to payment of the entry deposit and the first installment of the premium due the first year;
 2. The application is incomplete and identify what additional information is required; or
 3. The application has been denied and the reasons for the denial. An applicant may appeal this decision pursuant to NAC 519A.630.
- (Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.585 Establishment of amount of bond; amount of coverage by bond pool. (NRS 513.063, 519A.290)

1. The responsible regulatory authority shall establish the amount of the reclamation performance bond.
 2. A participant is subject to a maximum bond amount for which the bond pool may be liable. The maximum amount may be reached by bonding more than a single mining operation or exploration project or a combination thereof.
 3. A participant may participate in the bond pool with greater bond coverage than is required by the responsible regulatory authority with the approval of the administrator or a person designated by him. Any coverage in excess of that required by the responsible regulatory authority must be identified and may not be used to cover reclamation costs in the event of the forfeiture by the participant. The administrator or a person designated by him will include any such coverage in determining the amount of the deposit and premiums the participant is required to pay pursuant to NAC 519A.595.
 4. The maximum bond coverage for a participant who is the operator of one or more mining operations or exploration projects, or any combination thereof, is \$3,000,000.
 5. A participant may request a change in his bond pool coverage. The administrator or a person designated by him may require additional information before increasing the bond coverage of a participant.
- (Added to NAC by Dep't of Minerals, eff. 10-9-90; A 3-4-92; A by Div. of Minerals, 11-14-97; A by Comm'n on Mineral Resources by R066-02, 8-23-2002)

NAC 519A.590 Indemnification of bond pool. Before acceptance into the bond pool, the applicant must execute a general agreement of indemnity on a form provided by the division. After acceptance into the bond pool, he must indemnify and keep indemnified and save and hold harmless the bond pool against all loss, costs, expenses and attorney's fees incurred by the bond pool as a result of his participation in the bond pool or forfeiture of any part of his bond.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.595 Payment of entry deposit and premiums. (NRS 519A.290)

1. Each participant must pay the entry deposit and premiums required by this section to maintain participation in the bond pool.

2. If an operator becomes a participant before August 23, 2002, the participant must pay a deposit equal to 15 percent of his bond coverage at the time of entry into the bond pool. The amount of the deposit will be adjusted if the bond coverage provided by the pool increases or decreases solely because of a recalculation of the amount of the bond so the deposit is equal to 15 percent of the bond coverage. If the bond coverage provided by the pool increases because the plan is amended, the deposit for the bond will be calculated in the manner provided in subsection 3. The deposit and any addition to the original deposit must remain in the bond pool until the participant has been released by the responsible regulatory authority from further reclamation liability. The deposit will not be released in the event of a forfeiture.

3. If an operator becomes a participant after August 23, 2002, the amount of the deposit for:

(a) A bond that is less than \$ 10,000, is 100 percent of the amount of the bond; and

(b) A bond that is \$ 10,000 or more, is a percentage of the amount of the bond calculated using the following formula:

$$\frac{3}{299,000} \quad (\text{amount of bond} - 10,000) + 50$$

4. Annual premiums, established as an equal percentage of each participant's bond coverage, must be paid by the participant:

(a) In quarterly installments on or before March 31, June 30, September 30 and December 31; or

(b) Annually in accordance with a schedule approved by the administrator or a person designated by him.

5. Upon entry to the bond pool, the participant must, based on the date of entry, pay a prorated amount of the first:

(a) Quarterly premium; or

(b) Annual premium, if the participant pays the premium in accordance with a schedule approved by the administrator or a person designated by him pursuant to subsection 4. After entry to the bond pool, the participant must pay the regular quarterly or annual amount on or before the date the premium is due.

6. The annual premium will be calculated as follows:

(a) Except as otherwise provided in paragraph (b), for bonds that were issued before August 23, 2002, the annual premium is 5 percent of the bond coverage of a participant.

(b) For bonds that are issued on or after August 23, 2002, or for bonds that have increased because the plan is amended, the annual premium:

(1) Except as other provided in subparagraph (3), for bonds whose total amount is less than \$ 10,000, is 3 percent of the amount of the bonds.

(2) Except as otherwise provided in subparagraph (3), for bonds whose total amount is at least \$ 10,000, is a percentage of the amount of the bond calculated using the following formula:

$$\frac{3}{299,000} \quad (\text{amount of bond} - 10,000) + 10$$

(3) If the amount of the deposit and the premiums paid by a participant equal or exceed the amount of the bond, is 3 percent of the amount of the bond. For the purposes of this subparagraph, any late penalty paid by a participant will not be considered in determining the amount of annual premium.

7. Except as otherwise provided in NAC 519A.610 and 519A.615, the annual premium is nonrefundable.

8. If a change occurs in the required premium as a percentage of the bond coverage of a participant, the administrator or a person designated by him will notify the participant not less than 30 days before the due date of the next:

(a) Quarterly premium; or

(b) Annual premium, if the participant pays his premium in accordance with a schedule approved by the administrator or a person designated by him pursuant to subsection 4. The administrator or a person designated by him will base any change in the percentage of the premium on the recommendation of an actuary who is approved by the commissioner of insurance to review the status of the bond pool. The findings of the actuary must show that a change in percentage allows the bond pool to remain self-sustaining under statistically expected forfeiture rates and forecasted administrative costs.

9. The administrator or a person designated by him will:

(a) Consult with the risk management division of the department of administration to determine the availability and cost of obtaining insurance to insure against exposure to a risk that would cause the liability of the bond pool to exceed the amount of money in the bond pool.

(b) Consult with the commission to determine whether to obtain such insurance. If the insurance is obtained, the administrator or a person designated by him will establish a schedule for payment of the premiums for each participant based on the participant's portion of the total liability of the bond pool.

(c) Notify each participant of the amount of the premium he owes not less than 30 days before the premium is due.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A by Div. of Minerals, 11-14-97; A by Comm'n on Mineral Resources by R066-02, 8-23-2002)

NAC 519A.600 Management and use of money held in bond pool.

1. All money held in the bond pool must be held in trust by the state treasurer and used only for the purposes of the bond pool, including administrative expenses. The state treasurer may release money to a participant, the responsible regulatory authority or the division only upon receipt of a written request from the administrator or his designee.

2. All interest earned on money held in the bond pool must be added to the bond pool and be used solely for the purposes of the bond pool. Participants are not entitled to receive any interest on deposits or premiums paid into the pool. (Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.605 Failure to pay premiums: Penalty; termination of participation; liability of bond pool. (NRS 519A.290)

1. If a participant fails to pay the premiums in the amount and by the time required by NAC 519A.595, he shall pay a penalty of 5 percent of the amount of:

(a) His quarterly premium; or

(b) His annual premium, if the participant pays the premium annually in accordance with a schedule approved by the administrator or a person designated by him pursuant to that section.

2. If a participant fails to pay the quarterly or annual premium and the 5 percent penalty specified in subsection 1 within 30 calendar days after the date on which the premium is due, the division will notify the participant that his participation in the bond pool will be terminated if full payment of the quarterly or annual premium and penalty is not received within 70 calendar days after the date on which the premium was due. The notice will be sent to the participant and the responsible regulatory authority by certified mail, return receipt requested, at least 30 calendar days before any action concerning termination is taken by the administrator or a person designated by him.

3. If full payment of the quarterly or annual premium, including any penalty, is not received within 70 calendar days after the date on which it is due, the division will send a notice to the responsible regulatory authority and the participant by certified mail, return receipt requested, that his participation in the bond pool is terminated. If a participant's participation in the bond pool is terminated pursuant to this section, the division will not return the deposit paid by participant pursuant to NAC 519A.595.

4. The bond pool:

(a) Is liable for the coverage of the participant for reclamation of land that is disturbed until the date of termination.

(b) Is not liable for the reclamation of any land that is disturbed after the date of termination.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A by Div. of Minerals, 11-14-97)

NAC 519A.610 Release of deposit and unused premium. (NRS 519A.290) The administrator or a person designated by him will request the state treasurer to release the deposit of a participant and any unused premium paid by him, less any outstanding penalties or premiums, within 5 business days after receipt of written notification from the responsible regulatory authority that the participant:

1. Has satisfied the requirement to reclaim land disturbed by a mining operation or exploration project and the bond may be released; or

2. Has obtained a surety which replaces the bond coverage of the participant by the bond pool.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A by Div. of Minerals, 11-14-97)

NAC 519A.615 Partial release of deposit and unused premium. (NRS 519A.290) The deposit of a participant and any unused premium paid by him may be partially released in the same manner described in NAC 519A.610 if the responsible regulatory authority notifies the division that:

1. The required amount of the bond has been reduced; or

2. The participant has partially substituted another form of surety for a portion of the coverage provided by the bond pool.

The reduction in the amount of the deposit required is the same percentage as the percentage decrease in the coverage provided by the bond pool.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A by Div. of Minerals, 11-14-97)

NAC 519A.620 Forfeiture of bond: Action by administrator; liability and exoneration of bond pool.

1. Upon notification from the responsible regulatory authority that a participant has failed to complete the required reclamation and that the responsible regulatory authority, in accordance with all applicable laws and regulations, requires forfeiture of the bond, the administrator will:

(a) Immediately notify the participant that his participation in the bond pool is terminated and his deposit will not be returned; and

(b) Request that the state treasurer transfer to the responsible regulatory authority an amount of money from the bond pool determined by the administrator or his designee to be equal to the estimated cost of reclamation less any other bonds or surety held in favor of the State of Nevada or the United States relating to the mining operation or exploration project of the participant to which the forfeiture applies.

2. The maximum liability of the bond pool is the coverage provided to the participant relating to the mining operation or exploration project of the participant at the time of the forfeiture.

3. If the responsible regulatory authority exonerates the participant from any portion of bonded liability, the bond pool is exonerated of an equal amount of bonded liability.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

NAC 519A.625 Forfeiture of bond: Action against participant or former participant. (NRS 519A.290) In the event of a forfeiture by a participant or a former participant whose participation in the bond pool is terminated pursuant to NAC 519A.605, the administrator or a person designated by him will immediately notify the attorney general and request that action be taken against the participant or former participant in the name of the State of Nevada in any court of competent jurisdiction to recover the full costs incurred by the bond pool as a result of the forfeiture. Any money recovered must be deposited in the bond pool and used for the general purposes of the bond pool.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A by Div. of Minerals, 11-14-97)

NAC 519A.630 Appeal of denial or termination of participation in bond pool.

1. Any person who is denied participation in the bond pool pursuant to NAC 519A.580 or whose participation in the bond pool is terminated pursuant to NAC 519A.620 may appeal the denial or termination.

2. Written notice of the appeal must be received by hand delivery or certified mail, return receipt requested, by the division within 20 calendar days after receipt of the notice of denial or termination.

3. The appeal must state the grounds for the appeal of the denial or termination.

4. Within 30 calendar days after receipt of a notice of appeal, the division will send a notice of the hearing to the person appealing the denial or termination. The notice will include the time, place and nature of the hearing, the legal authority and jurisdiction under which the hearing is to be held, and a statement of the matters asserted.

5. The hearing will be held before a panel composed of:

(a) The administrator who is the chairman of the panel and hearing officer;

(b) A member of the commission who is designated by the chairman of the commission; and

(c) A representative of the current participants in the bond pool who is selected by the chairman of the commission and the administrator.

6. The person appealing the denial or termination may present evidence and has the burden of proving that the denial or termination should be modified or reversed.

7. The panel shall render a written decision which must be served personally or by certified mail upon the person appealing the denial or termination. The decision of the panel is a final decision for the purposes of judicial review.

(Added to NAC by Dep't of Minerals, eff. 10-9-90)

Fee for Filing Plan of Operation

NAC 519A.634 Amount of fee. (NRS 519A.250) The amount of the fee that an operator must pay pursuant to subsection 1 of NRS 519A.250 is \$20 per acre or part of an acre.

(Added to NAC by Comm'n on Mineral Resources by R069-99, eff. 8-19-99)

NAC 519A.635 Refund of portion of fees. (NRS 513.063, 519A.250)

1. The division will refund to an operator a portion of the fees required by NRS 519A.250 according to the following schedule:

(a) For an amended plan:

(1) That reduces the number of acres or part of an acre to be disturbed from the original number of acres or part of an acre to be disturbed; and

(2) For which a fee has been paid to the division pursuant to NRS 519A.250, the refund is \$1 for each acre or part of an acre removed from planned disturbance by the amendment.

(b) For a plan, there is no refund.

(c) For a notice, there is no refund.

2. An operator who wishes to receive a refund must send to the administrator a written request and a copy of the approved amended plan showing the reduction in acreage. Within 20 business days after receiving a valid written request for a refund and a copy of the amended plan, the administrator or his designee will request that the state controller issue a check to the operator in an amount calculated pursuant to paragraph (a) of subsection 1.

3. As used in this section:

(a) "Notice" means a notice of intent to conduct activities that disturb the surface which is filed with the United States Bureau of Land Management or the United States Forest Service.

(b) "Operator" includes a person who is required by federal law to file a plan, an amended plan or a notice with the United States Bureau of Land Management or the United States Forest Service.

(Added to NAC by Dep't of Minerals, eff. 10-9-90; A by Comm'n on Mineral Resources by R080-01, 1-16-2002, R066-02, 8-23-2002)

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